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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/688,733

10/15/2003

Robert Grzesek

MAT 314

1775

23581 7590 04/13/2007  
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EXAMINER

MILLER, BENA B

ART UNIT

PAPER NUMBER

3725

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
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3 MONTHS

04/13/2007

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

# Office Action Summary

Application No.

10/688,733

Applicant(s)

GRZESEK ET AL.

Examiner

Bena Miller

Art Unit

3725

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 30-49 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 30-49 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)
- Paper No(s)/Mail Date 01/08/07.

- 4) ☐ Interview Summary (PTO-413)
- Paper No(s)/Mail Date. \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_.

*Bena Miller*

## **DETAILED ACTION**

### ***Drawings***

The drawings are finally objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the "the chassis including the other of the alignment member and the complimentary alignment member" as recited in claim 30, "the cockpit includes a third magnet, the third magnet being configured to couple the cockpit to one of the chassis" as recited in claim 34, "the chassis includes a pedestal and a magnet coupled to the pedestal" as recited in claim 33 and "the chassis includes a pedestal" as recited in claim 47 must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner,

the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

The drawings are finally objected to under 37 CFR 1.83(a) because they fail to show the "the chassis including the other of the alignment member and the complimentary alignment member" as recited in claim 30, "the cockpit includes a third magnet, the third magnet being configured to couple the cockpit to one of the chassis" as recited in claim 34, "the chassis includes a pedestal and a magnet coupled to the pedestal" as recited in claim 33 and "the chassis includes a pedestal" as recited in claim 47 as described in the specification. Any structural detail that is essential for a proper understanding of the disclosed invention should be shown in the drawing. MPEP § 608.02(d). Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner,

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the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

***Claim Rejections - 35 USC § 112***

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 30-35 and 42-49 are finally rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The subject matter, "the chassis including the other of the alignment member and the complimentary alignment member", as recited in claim 30, "the chassis includes a pedestal and magnet coupled to the pedestal" as recited in claim 33, "means for aligning the cockpit relative to the chassis" as recited in claim 42, and "the chassis includes a pedestal" as recited in claim 47, as now amended, is not supported by the original specification and therefore, now constitutes New Matter.

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 30-49 are finally rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The claims are replete with indefiniteness that

is too numerous to point out in every instance. The following examples are provided for the applicant's use in making corrections wherever appropriate but not specifically pointed out.

Re claim 30, it is not clear whether the chassis includes the other of the alignment member and the complimentary alignment member. It is not clear what is meant by the phrase "its own rotatable element". The scope of the limitation "one of the vehicle body and the chassis including the other of the alignment member and the complimentary alignment member" is indefinite because the combination of the structure is not clear.

Further, the phrase "the one of the chassis and the cockpit including the first magnet including a second magnet" is confusing. Clarification is required in response to this Office action.

Re claim 33, it is not clear whether the cockpit includes a third magnet.

Re claim 36, it is not clear what is meant by the phrase "the second component being **selectively** coupleable to the first component".

Re claim 38, it is not clear what is meant by the phrase "the forth component includes its own magnet".

Re claim 40, it is not clear how the wheels are configured to rotate relative to the first component, second component and the third component. Note, the claim requires an axle and a pair of wheels. Further, the claim does not require the pair of wheels attached or connected to the axle.

Re claim 42, it is not clear whether the means for aligning the cockpit is relative to the chassis.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 30-49 are finally rejected under 35 U.S.C. 103(a) as being unpatentable over Gray et al in view of either of Hubertus or Hartmann.

Gray et al teaches most of the elements of the claimed invention including a vehicle (37, 51 and 61), chassis (10), cockpit (72 and 73), first component (26), second component (35), an alignment member (48B, 48C) and complimentary alignment (48). However, Gray et al fails to teach magnets coupleable to the components. Hubertus or Hartmann teaches that it is known to use magnets or magnet force to connect components of a toy vehicle. It would have been obvious to one having ordinary skill in the art at the time the invention was made to incorporate magnets as suggested by Hubertus or Hartmann in the toy vehicle of Gray et al for the purpose of providing components of a toy vehicle with a secured connection when assembled.

Further, it would have been obvious to one having ordinary skill in the art at the time the invention was made to use magnets for the device of Gray et al since the examiner takes Official Notice of the equivalence of bolts, dowel pins and magnets for

their use in the toy art and the selection of any of these known equivalents to connect various parts of a toy vehicle would be within the level of ordinary skill in the art.

***Response to Arguments***

Applicant's arguments filed 02/02/07 have been fully considered but they are not persuasive. Applicant's attention is directed to the above rejection.

***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

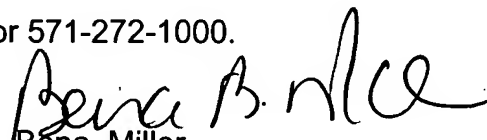
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Bena Miller whose telephone number is 571.272.4427. The examiner can normally be reached on Monday-Friday.



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The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

  
Bena Miller  
Primary Examiner  
Art Unit 3725

bbm  
April 06, 2007